
STATUTORY INSTRUMENTS

2008 No. 1082

The Employment and Support Allowance
(Consequential Provisions) Regulations 2008

PART 3

The Housing Benefit Regulations 2006

Amendment of regulation 28

14. In regulation 28 (treatment of child care charges)—

(a) in paragraph (2)—

(i) after sub-paragraph (b) insert—

“(ba) is paid an employment and support allowance;” and

(ii) in sub-paragraph (d) after “incapacity for work” insert “ or limited capability for work”;

(b) in paragraph (3)(a) after “short-term incapacity benefit” insert “, an employment and support allowance”;

(c) in paragraph (11)(1)—

(i) in sub-paragraph (a) after “incapacity” add “or the support component or the work-related activity component on account of the other member having limited capability for work”;

(ii) after sub-paragraph (b) insert—

“(ba) the claimant’s applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations;”;

(iii) after sub-paragraph (c) insert—

“(ca) the claimant (within the meaning of regulation 2(1)) has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;” and

(iv) in sub-paragraph (d) after (vi) add—

“(vii) main phase employment and support allowance;” and

(d) after paragraph (12) insert—

“(12A) For the purposes of paragraph (11), once paragraph (11)(ca) applies to the claimant, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter to apply to him for so long as he has, or is treated as having, limited capability for work.”.